

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

AARON LARRY BOWMAN

*** CIVIL ACTION.**

VERSUS

*** DOCKET NO. 3:20-cv-01372**

**OUACHITA PARISH SHERIFF'S
OFFICE, ET AL.**

*** JUDGE TERRY A. DOUGHTY
* MAGISTRATE JUDGE KAREN L. HAYES**

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO REMAND

NOW INTO COURT, through undersigned counsel, comes Mr. Aaron Bowman ("Mr. Bowman"), who respectfully submits this Memorandum in Support of Plaintiff's Motion to Remand. In support, counsel states:

The original Petition for Damages in this matter was filed by Plaintiff on September 21, 2020 in the Fourth Judicial Circuit of the State of Louisiana. On October 22, 2020, Defendant Louisiana Department of Public Safety & Corrections (Office of State Police) ("LDPSC") filed its Notice of Removal with this Court. (ECF #1). The sole basis of this removal was federal question jurisdiction by this Court of Mr. Bowman's claims made under 42 U.S.C. 1983. *Id.* at ¶¶6-8. This Court order removal on October 26, 2020. (ECF #3).

Since this case was removed from state court, no discovery has commenced. This case remains at its infancy with only Defendant LDPSC and Defendant University of Louisiana System Board of Supervisors ("UL") having filed Answers. (ECF #5 & 10). Plaintiff filed an Amended Complaint (ECF #19), to which only Defendant UL filed an Amended Answer. (ECF #29). Several defendants have now filed Motions to Dismiss pursuant to F.R.C.P. art. 12(b)(6), which are pending before this Court.

In his Amended Complaint, Paragraphs #1-#50 of the Petition filed in state court were adopted and re-averred. (ECF #19 at ¶, 2, 24). Plaintiff then corrected some factual allegations against previously unnamed parties, but added no new causes of action under Louisiana or federal law. (ECF #19 at ¶¶25-27). In the original state court petition, Plaintiff alleged both state law torts, *see* Sept. 21, 2020 Petition at ¶¶36-44, 46-49, and one claim of a violation of Mr. Bowman's federal rights under 42 U.S.C. §1983. *Id.* at ¶45. Plaintiff itemized his damages in Paragraph 50. Only two of these were purely based in federal law under §1983. *See* Sept. 21, 2020 Petition at ¶50, #11 (punitive damages) and #12 (attorney fees).

Simultaneously filed with this Motion is Plaintiff's Motion for Leave to Amend Complaint and Voluntarily Dismiss All Claims Under 42 U.S.C. §1983. Through this motion, Plaintiff seeks to amend his complaint to strike and dismiss all claims under 42 U.S.C. §1983. The sole basis for removal of this case was subject matter jurisdiction based on these §1983 claims. (ECF #1). Accordingly, if these claims are voluntarily dismissed by Plaintiff, the only remaining claims deal with Louisiana state torts and this Court has no subject matter jurisdiction.

Federal law provides that "[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case **shall** be remanded." 28 U.S.C. 1447(C). If Plaintiff is allowed to voluntarily dismiss his federal claims, there will be no subject matter jurisdiction of this Court over any of the remainder of Plaintiff's alleged causes of actions. Accordingly, remand would be required.

WHEREFORE, Plaintiff prays that this Court remand this matter to state court.

Respectfully Submitted,

/s/ Christopher J. Murell

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served on all counsel of record,
through the U.S Courts PACER system on this 14th day of January 2021,
by electronically filing the same.

/s/ Christopher Murell

